

REMARKS / ARGUMENTS

A. Summary of the Amendments

The application still contains 26 claims.

Claims 1, 21, 22 and 23 have been amended to clarify the subject matter being claimed.

The Applicant submits that no new matter has been added to the application. Support for the amended claims 1, 21, 22 and 23 may be found, *inter alia*, on page 10, lines 9-12 of the specification.

B. Statements of Rejection and Reply

I. Rejection of claims 1, 2, 7-9 and 9-23 under 35 U.S.C. §102

On page 2 of the Office Action, the Examiner has rejected claims 1, 2, 7-9 and 19-23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,717,930 (hereinafter referred to as Imai). The Applicant respectfully traverses this rejection and submits that the claims are in allowable form, as discussed below.

The Examiner's attention is directed to the following limitations of amended claims 1, 21, 22 and 23:

1. A computer readable storage medium containing a program element for execution by a computing device to implement a software installation manager [...] said software installation manager including:

[...]

- c) [...] generation of messages directed to the nodes of the set for causing installation of at least one software product on the nodes of the set in parallel according to a non-blocking sequence of nodes;

[...]

21. A computer readable storage medium containing a program element for execution by a computing device to implement a software installation manager [...] said software installation manager including:

[...]

- c) [...] generation of message means directed to the nodes of the set for causing installation of at least one software product on the nodes of the set in parallel according to a non-blocking sequence of nodes; and

[...]

22. A subnetwork management node in a data network, the data network including a set of nodes other than the subnetwork management node [...] said subnetwork management node comprising:

[...]

- c) [...] generation of messages directed to the nodes of the set for causing installation of at least one software product on the nodes of the set in parallel according to a non-blocking sequence of nodes;

[...]

23. A method to perform software installation in a data network, said method comprising:

[...]

- c) the messages being sent to the nodes of the set in a manner to cause the installation of at least one software product in parallel according to a non-blocking sequence of nodes; and
- d) the non-blocking sequence being characterized in that installation of the at least one software product on one node of the set does not block installation of the software product on another node of the set.

The Applicant respectfully submits that Imai does not disclose, teach or suggest the above-emphasized limitations of amended claims 1, 21, 22 and 23. More specifically, parallel installation of software on multiple computers in a data network according to a non-blocking sequence of nodes is nowhere taught nor suggested in Imai.

In rejecting claims 1, 21, 22 and 23, the Examiner considers the "non-blocking sequence" claimed therein to be taught by Imai. To support his argument, the Examiner refers to column 6, lines 42-44 of Imai. However, it is noted that the section of Imai cited by the Examiner actually describes a process whereby a

computer that has undergone an operating system installation makes use of an installation decision means to "[determine], in sequence, whether each application software should be installed" from the server. In the list of software available on the server, those that are required by that particular computer are then installed (see, Imai: column 6, lines 43-48 and column 10, lines 32-3). Clearly, the sequence detailed in Imai refers to a sequence of software to be installed on a single node and in no way refers to a sequence of nodes according to which certain software is to be installed.

In view of the foregoing, the Applicant respectfully submits that there is at least one limitation of claims 1, 21, 22 and 23 that is not taught or disclosed in Imai and as such, the rejection under 35 U.S.C. 102 (b) cannot stand. The Examiner is therefore respectfully requested to withdraw his rejection of claims 1, 21, 22 and 23.

Claims 2, 7-9 and 19-20 depend either directly or indirectly on claim 1 and therefore include all of the limitations of claim 1. Thus, for the same reasons as those set forth above in support of claim 1, it is respectfully submitted that claims 2, 7-9 and 19-20 are in allowable form and the Examiner is respectfully requested to withdraw his rejection of these claims.

II. Rejection of claims 3-6, 10-13, 14-18 and 24-26 under 35 U.S.C. §103

Claims 3-6 and 10-13:

On page 4 of the Office Action, the Examiner has rejected claims 3-6 and 10-13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,717,930 (Imai) in view of U.S. Patent 5,257,369 (hereinafter referred to as Skeen).

Claims 3-6 and 10-13 depend either directly or indirectly on claim 1 and therefore include all the limitations of claim 1, including the limitation already shown to be absent from Imai, namely, the parallel installation of software on multiple computers in a data network according to a non-blocking sequence of nodes. Moreover, it is respectfully submitted that this limitation is also absent from Skeen.

Skeen relates to a method of communication between foreign software processes. In Skeen, software applications (local or on different computers in a network) that may use different communication protocols, are decoupled so as to permit the exchange of information, as required by their functionality. It will be apparent that Skeen is not directed to the remote installation of software over a network. It is therefore not surprising that Skeen fails to teach or suggest the above-emphasized limitation. In particular, it will be apparent that Skeen does not teach or suggest a system allowing the parallel installation of software on multiple computers in a data network according to a non-blocking sequence of nodes.

Now, as set forth in § 2143.03 of the *Manual of Patent Examining Procedure*, in order to establish a *prima facie* case of obviousness, the combined prior art references must teach or suggest all of the claim limitations. Since it has been shown that the combination of Imai and Skeen does not teach all of the limitations of claims 3-6 and 10-13, the Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

Claims 14-18:

On page 6 of the Office Action, the Examiner has rejected claims 14-18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,717,930 (Imai) in view of U.S. Patent 5,257,369 (Skeen) and in view of U.S. Patent 5,555,416 (hereafter referred to as Owens)

Claims 14-18 all depend indirectly on claim 1 and therefore contain all the limitations of claim 1, including the above-emphasized limitation already shown to be absent from Imai and Skeen, namely, the parallel installation of software on multiple computers in a data network according to a non-blocking sequence of nodes. Moreover it is respectfully submitted that this limitation is also absent from Owens.

Owens relates in general to the automatic installation of software on a computer. Owens, however, does not consider or resolve any problem encountered when the installation of software on one node has the potential to block installation of software on another node. Specifically, there is no mention in Owens of a system allowing the parallel installation of software on multiple computers in a data network according to a non-blocking sequence of nodes. Such a system being neither disclosed nor taught nor suggested by Owens, the Applicant respectfully submits that not all of the limitations of claim 1 are taught or suggested by the cited prior art.

Now, as set forth in § 2143.03 of the *Manual of Patent Examining Procedure*, in order to establish a *prima facie* case of obviousness, the combined prior art references must teach or suggest all of the claim limitations. Since it has been shown that the combination of Imai, Skeen and Owens does not teach all of the limitations of claims 14-18, the Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

Claims 24-26:

On page 7 of the Office Action, the Examiner has rejected claims 24-26 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,717,930 (Imai) in view of U.S. Patent 5,555,416 (Owens).

The Examiner's attention is directed to the following limitation of claim 24:

24. A computer readable storage medium containing a program element for execution by a computing device to implement a software installation manager [...] said software installation manager including:

[...]

- d) [...] said software product installation process including generation of messages directed at the nodes of the set according to a non-blocking sequence commanding at least a plurality of the nodes of the set to perform coincident rebooting.

The Applicant respectfully submits that neither Imai nor Owens, whether taken severally or in combination, disclose, teach or suggest the subject matter of all the limitations of claim 24. More specifically, the application of a non-blocking sequence in commanding a coincident rebooting of a plurality of nodes in a network is nowhere taught or suggested in the cited references.

The cited section of Imai (6:42-44) describes the sequential traversal, by a computer, of the available software on a server. In no way does this or any other passage of Imai teach or suggest the generation of messages "according to a non-blocking sequence commanding [...] a plurality of nodes to perform coincident rebooting".

For its part, Owens never considers or resolves the problems encountered when an installation on one node has the potential to block the installation on other nodes, and therefore does not disclose anything resembling a non-blocking sequence that would deal with such a problem. Furthermore, it follows from Owens' failure to disclose such a sequence that Owens also fails to teach or suggest the generation

of messages "according to a non-blocking sequence commanding [...] a plurality of nodes to perform coincident rebooting".

In view of the foregoing, the Applicant respectfully submits that there is at least one limitation of claim 24 that is not taught or disclosed in either Imai or Owens.

As set forth in § 2143.03 of the *Manual of Patent Examining Procedure*, in order to establish a *prima facie* case of obviousness, the combined prior art references must teach or suggest all of the claim limitations. Since it has been shown that the combination of Imai and Owens does not teach all of the limitations of claim 24, the Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

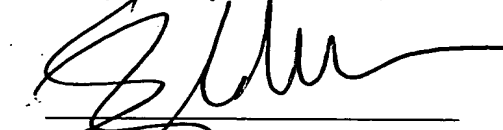
Claims 25 and 26 depend either directly or indirectly on claim 24 and therefore include all of the limitations of claim 24. Thus, for the same reasons as those set forth above in support of claim 24, the Applicant respectfully submits that claims 25 and 26 are in allowable form and the Examiner is respectfully requested to withdrawn his rejection of these claims.

CONCLUSION

In view of the above, it is submitted that claims 1-26 are in condition for allowance. Reconsideration of the rejections and objections is requested. Allowance of claims 1-26 at an early date is solicited.

If the claims of the application are not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims or in making constructive suggestions so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,



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